

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 22

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte TOSHIO OKADA

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Appeal No. 96-2864  
Application 08/048,503<sup>1</sup>

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ON BRIEF

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Before STONER, Chief Administrative Patent Judge, McQUADE and CRAWFORD, Administrative Patent Judges.

McQUADE, Administrative Patent Judge.

DECISION ON APPEAL

This appeal was originally taken from the final rejection of claims 1 through 15, all of the claims pending in the application. The appellant has since amended claims 1 through 15, and in response the examiner has withdrawn all rejections of claims 9, 10, 14 and 15 which now stand allowed. Thus, the

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<sup>1</sup> Application for patent filed April 20, 1993.

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appeal as to claims 9, 10, 14 and 15 is hereby dismissed, leaving for review the standing rejections of claims 1 through 8 and 11 through 13.

The invention pertains to a voice recording and reproducing apparatus designed to function as an interactive language learning device. A copy of the claims involved in the appeal is appended to the appellant's main brief (Paper No. 14).

The reference relied upon by the examiner as evidence of anticipation and obviousness is:

Willetts	5,010,495	Apr. 23, 1991
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Claims 1 through 8 and 13 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Willetts, and claims 11 and 12 stand rejected under 35 U.S.C. § 103 as being unpatentable over Willetts.

Reference is made to the appellant's main and reply briefs (Paper Nos. 14 and 16) and to the examiner's main and supplemental answers (Paper Nos. 15 and 18) for the respective positions of the appellant and the examiner with regard to the merits of these rejections.

Willetts discloses "a computerized interactive language learning system which provides visual text displays and associated digitized audio speech" (column 1, lines 7 through 9).

As described by Willetts with reference to Figure 1, the system 50 includes

a conventional personal computer 52 (e.g., IBM PC or true compatible provided with a conventional DOS disk operating system version 2.1 or higher and at least 384 kilobytes of random access memory); a keyboard input device 54; a mass storage device 56 (which may be one or more floppy diskette drives and associated floppy diskettes, Winchester-type hard disk drives and/or CD ROM drives); a conventional CRT-type display 58; and a speech processor 60 connected to an appropriate audio input/output device (a conventional headset-type speaker/microphone arrangement 62a and/or a microphone/loudspeaker combination 62b with appropriate external audio amplifiers as necessary).

. . . Speech processor 60 converts audio signals applied to its audio input into ADPCM (Adaptive Differential Pulse Code Modulation) encoded digital data in a conventional manner for storage on mass storage device 56 - and also converts previously recorded ADPCM encoded digital data stored on the mass storage device into an audio signals [sic] provided at the speech processor audio output socket (also in a conventional manner) [column 7, lines 29 through 61].

The Willetts system provides a "Studio Routine" (see column 20, line 41 et seq.) which allows a teacher to design and/or customize lessons and exercises which are presented to a student through three student functions: SoundSort, AudioWrite and AudioLab. The SoundSort function requires a student to listen to a jumbled series of audio phrases and arrange them in the proper order (see column 6, lines 7 through 21; column 11, line 40 through column 12, line 32; and column 17, line 59 through column

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20, line 40). The AudioWrite function requires a student to listen to and type an audio text (see column 6, lines 22 through 30; column 10, line 61 through column 11, line 40; and column 16, line 42 through column 17, line 58). The AudioLab function allows a student to listen to an audio text, and to record and play back his or her restatement of the text (see column 5, line 47 through column 6, line 6; column 9, line 1 through column 10, line 60; and column 13, line 5 through column 16, line 42).

The examiner's explanation of the rejections on appeal indicates that they are based on the AudioLab configuration of the Willetts system. As explained by Willetts, the student separately implements each of the various steps in the AudioLab function, i.e., the selection of an audio text, the playing of a selected text, the recording of the student's restatement of a text and the play back of the recorded restatement, in whatever order desired by pressing specified keys on the keyboard input device 54.

With regard to the standing 35 U.S.C. § 102(b) rejection of claims 1 through 8 and 13, anticipation is established only when

a single prior art reference discloses, expressly or under principles of inherency, each and every element of a claimed invention. RCA Corp. v. Applied Digital Data Sys., Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir. 1984).

In the present case, independent claim 1 recites a voice recording and reproducing apparatus comprising, inter alia, input means for receiving a sentence end reproduction indication signal and control means for controlling the recording and reproducing means so as to reproduce a predetermined length of the recorded audio signal representing a terminating portion of one of the sentences in response to the sentence end reproduction indication signal. Independent claim 7 recites a voice recording and reproducing apparatus comprising, inter alia, input means for receiving a recording and reproducing mode indication signal and control means responsive to said recording and reproducing mode indication signal for controlling a repetitive sequence of the reproducing of a first audio signal and the recording and reproducing of a second audio signal by the recording and reproducing means with each repetition of the repetitive sequence

including at least recording of the second audio signal and reproducing of at least one of the first and second audio signals. Independent claim 8 recites a voice recording and reproducing apparatus comprising, inter alia, input means for receiving a skip indication signal and control means for controlling the recording and reproducing means in response to the skip indication signal so as to alter by a predetermined interval a position on the disk-shaped recording medium from which the recorded audio signal is reproduced. It is not apparent, nor has the examiner specifically pointed out, where each of these recited elements is disclosed by Willetts.

Arguably, if a series of individual commands were inputted in the proper sequence via the keyboard input device 54, the Willetts system in its AudioLab configuration could (1) reproduce a predetermined length of a recorded audio signal representing a terminating portion of a sentence, or (2) reproduce a repetitive sequence of the reproducing of a first audio signal and the recording and reproducing of a second audio signal by the recording and reproducing means with each repetition of the repetitive sequence including at least recording of the second

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audio signal and reproducing of at least one of the first and second audio signals, or (3) alter by a predetermined interval a position on the disk-shaped recording medium from which a recorded audio signal is reproduced. It is not evident, however, that Willetts discloses, or would have suggested, the particular "means" recited in claims 1, 7 and 8 for performing these operations.

Accordingly, we shall not sustain the standing 35 U.S.C. § 102(b) rejection of independent claims 1, 7 and 8, or of dependent claims 2 through 6 and 13, as being anticipated by Willetts, or the standing 35 U.S.C. § 103 rejection of dependent claims 11 and 12 as being unpatentable over Willetts.

With additional regard to the 35 U.S.C. § 103 rejection, the examiner has failed to present an adequate evidentiary showing that a voice recording and reproducing apparatus having the variable speed features recited in claims 11 and 12, which are conceded to be lacking in Willetts, would have been obvious to one of ordinary skill in the art. The citation of new references under the "Response to Argument" heading in the main answer to

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cure this deficiency is inappropriate. See In re Hoch, 428 F.2d  
1341, 1342 n.3, 166 USPQ 406, 407 n.3 (CCPA 1970).

The decision of the examiner is reversed.

REVERSED

BRUCE H. STONER, JR.	)	
Chief Administrative Patent Judge	)	
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	)	
	)	
JOHN P. McQUADE	)	BOARD OF PATENT
Administrative Patent Judge	)	APPEALS AND
	)	INTERFERENCES
	)	
	)	
MURRIEL E. CRAWFORD	)	
Administrative Patent Judge	)	



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